

September 11, 1997

OFFICE OF THE HEARING EXAMINER
KING COUNTY, WASHINGTON
700 Central Building, 810 Third Avenue
Seattle, Washington 98104
Phone (206) 296-4660 Fax (206) 296-1654

REPORT AND DECISION ON APPLICATION FOR PRELIMINARY PLAT APPROVAL

SUBJECT: King County Department of Development and Environmental Services File No.
L96P0009

PARK VIEW
Preliminary Plat Application

Location: 7246 Northeast 120th Place, Kirkland, WA

Owner: Shirley Allbaugh
12616 NE 73rd
Kirkland, WA 98034

Developer: Shannon Allbaugh
7326 NE 120th Street
Kirkland, WA 98034

Represented by: Linda Youngs
Attorney at Law
10777 Main Street
Bellevue, WA 98004

SUMMARY OF RECOMMENDATIONS:

Department's Preliminary:	Approve, subject to conditions
Department's Final:	Approve, subject to conditions (modified)
Examiner's Decision:	Approve, subject to conditions (modified)

PRELIMINARY MATTERS:

Application: May 3, 1996
Notice of complete application: May 29, 1996

EXAMINER PROCEEDINGS:

Pre-Hearing Conference: July 24, 1997
Hearing Opened: August 5, 1997

At 3:50 P.M., on August 5, 1997, the Examiner continued the hearing in order to obtain the King County Road Engineer's decision on a road variance application (discussed in Finding No. 6.B, below). The Examiner further indicated that he would accept comments from the Applicant, the Department of Development and Environmental Services, and from two potentially directly affected property owners within ten days following the Road Engineer's decision. This administratively continued hearing closed September 8, 1997

Participants at the public hearing and the exhibits offered and entered are listed in the attached minutes. A verbatim recording of the hearing is available in the office of the King County Hearing Examiner. The Applicant and DDES each waive any ordinance or statutory deadlines which may apply to the issuance of this report.

ISSUES ADDRESSED:

- King County Road Standards
 - Stopping sight distance
 - Abutting driveway access
- Drainage
 - Downstream capacity
 - Erosion
- Wildlife habitat (eagles)

FINDINGS, CONCLUSIONS & DECISION: Having reviewed the record in this matter, the Examiner now makes and enters the following:

FINDINGS:

1. General Information:

Owner: Shirley Allbaugh
12616 NE 73rd
Kirkland, WA 98034
425-828-0632

Developer: Shannon Allbaugh
7326 NE 120th Street
Kirkland, WA 98034
425-823-1983

Engineer: Triad Associates

11814 115th Avenue NE
 Kirkland, WA 98034
 425-821-8448

STR: 25-26-04

Location: Generally located on the north side of NE 120th Street at the intersection with 72nd Avenue Northeast.

Zoning: R-4-P

Acreage: 4.65

Number of Lots: 15

Density: 3.2 units per acre

Typical Lot Size: Ranges from approximately 9,800 to 15, 500 square feet

Proposed Use: Single-family detached dwellings

Sewage Disposal: Northshore Utility District

Water Supply: Northshore Utility District

Fire District: King County Fire District #41

School District: Lake Washington School District

Complete

Application Date: May 3, 1996

2. **Proposal.** Shirley and Shannon Allbaugh (the "Applicant") propose to subdivide a 4.65 acre parcel into 15 detached single family residential building lots. With lot sizes ranging from 9,800 to 15,500 square feet, the proposed density is 3.2 dwelling units per acre--within the density range specified by the R-4-P zoning which applies to this property.
3. **SEPA.** No environmental impact statement is required. The Department of Development and Environmental Services ("DDES" or the "Department") issued a mitigated threshold determination of nonsignificance ("MDNS") on July 8, 1997. No person or agency appealed that determination. It imposes regulations on tree cutting, clearing, grading, utility installation, road building and outside construction; vegetation and screening buffers. See Section D, page 2 of the Department's preliminary report to the Hearing Examiner (Exhibit No. 2) or the mitigated threshold determination of nonsignificance (Exhibit No. 5).
4. **Department recommendation.** The Department recommends granting preliminary approval to the proposal subject to 20 conditions of final approval (including the five SEPA conditions). These conditions are stated on pages 7 through 11 of the Department's report to the Examiner (Exhibit No. 2); EXCEPT for the following changes:
 - A. Offsite drainage; recommended Condition No. 9. Recommended Condition Nos. 9.a and 9.b, based upon Level 3 drainage analysis completed November 19, 1996, will require the proposed drainage improvements within the unopened Northeast 120th Street right of way to be reviewed by a geotechnical engineer, with recommendations from that engineer shown on the engineering plans. The drainage improvements will also be reviewed by the DDES geotechnical review staff. Additionally, a Northeast 120th Street right of way restoration plan will be required at the time of engineering plan submittal for the new drainline construction. Restoration will require a detailed revegetation plan. See Exhibit No. 17.
 - B. Traffic control; recommended Condition No. 10.f. A new recommended condition

No. 10.f is added to assure that the engineering plan for Northeast 120th Street profile and for the new drainline construction will comply with King County Road Standards Section 9.05.A, which addresses developer/contractor responsibility for interim traffic control during construction on or along traveled County roads.

- C. Encroachment resolution; recommended Condition No. 21. Certain abutting lots along the north boundary of the subject property have encroached upon the subject property with landscaping and fencing. Recommended Condition No. 21 would acknowledge these *de facto* property boundaries through a boundary line correction process as defined in KCC 19.08.113 prior to final plat recording. See Exhibit No. 27.
 - D. Northeast 120th Place; recommended Condition No. 10. The Department's report incorrectly indicated an "urban minor access" improvement standard for this street. The correct standard is "urban subaccess." See King County Road Standards Section 2.03.
 - E. Northeast 120th Street variance request. The Department agrees that, in order to assure reasonable engineering standards for public safety the development of this street must be consistent with the King County Road Engineer's final decision regarding the Applicant's stopping sight distance variance request.
5. **Applicant.** The Applicant accepts the Department's final recommendation as described in Finding No. 3, above.
6. **Public concern.** Neighboring property owners expressed concerns regarding the following:
- A. Offsite ravine erosion. A significantly eroded and deep ravine exists on a nearby property. Concerns have been expressed regarding the potential impact of the proposed development upon that ravine. However, the Level 3 drainage analysis prepared for this review demonstrates that the ravine is not located within the same sub-basin as the subject property, and therefore will receive no drainage discharge from this proposed development.
 - B. Road standards, Northeast 120th Street. Five new lots will obtain public street access via Northeast 120th Street. In addition, one existing residence on the subject property will continue to use Northeast 120th Street. However, new subdivisions are required to meet King County Road Standards ("KCRS"). In this case, the Applicant's proposal to redevelop Northeast 120th Street complies with KCRS in every respect save one: the Applicant proposes a gradient which will achieve only 133 feet of stopping sight distance ("SSD"). The County Road Engineer insists on 150 feet SSD.

The Applicant contends that the profile cannot be reduced any further to achieve the desired SSD because it would make access impossible to one driveway abutting the north (upslope) side of the street. Several neighboring property owners express concern regarding the Applicant's variance request (asking, first, that the 150-foot SSD standard be kept or, in the alternative, that several other safety measures be required [striping, lighting, centerline buttons, speed bumps, for example]).

The hearing record on this matter was continued until receipt of the County Engineer's decision on the Applicant's request for variance from KCRS SSD standards. See Exhibit No. 28, entered during administrative continuance. The County Road Engineer indicates that the Road Services Division staff has evaluated the Applicants design and has determined that:

By adding fill to the street grade east of the crest of the hill, the street profile can be adjusted to increase the length of the crest curb which then meets the stopping sight distance standard.

Consequently, the County Road Engineer and the King County Department of Transportation will not alter its earlier position on this issue and will continue to require that the design meet the KCRS 150-foot SSD requirement.

Neighboring property owner Logan expresses concern that the required work on Northeast 120th Street will adversely affect their front rockery and septic system. The Applicant responds by saying that the roadway modifications will not affect either. DDES responds by saying that King County has no record of a legally established septic system in the Logan front yard and that, survey drawings indicate that portions of the Logan driveway are located partially within King County right of way. In any event, the Applicant concludes:

If such a drainfield does exist in that location, it will not be disturbed by any construction as no change will be made to the rockery and no construction will occur on the Logan property. There does not appear to be any basis for concern about the proper functioning of the drainfield as a result of the road reconstruction.

- C. Wildlife habitat. There is an eagle nest located nearby. A neighboring property owners' marking on Exhibit No. 8 suggests that it is located approximately 210 feet away. However, the Applicant and a State urban biologist indicate that the eagle nesting tree is 300 feet distant from the subject property. See annotations by concerned neighboring property owners and by the Applicant on Exhibit No. 8, area vicinity map. The Washington State Department of Fish and Wildlife ("DFW") and the Applicant have entered into a "Bald Eagle Nest Site Management Plan" (Exhibit No. 11). This management plan also indicates that the nearest Denny Park bald eagle nest is approximately 300 to 320 feet from the northwest corner of this property. The Applicant testifies that he and the DFW wildlife biologist together marked the tree bearing that nest. A concerned property owner contends that the state wildlife biologist never visited that property. The agreement establishes tree cutting, clearing, grading, utility installation, road building and outside construction controls with respect to timing of development and extent of clearing permitted. The Department has incorporated the conditions of that agreement in its recommended conditions of final plat approval. The Applicant does not object. Some neighboring property owners argue that such controls are insufficient.
- D. West access via 72nd Street Northeast. The Applicant will be required to improve that portion of 72nd Street Northeast right of way which extends northward from Northeast

120th Street to the center point of intersection with proposed Tract A (which, in turn, provides access to proposed lot Nos. 1-5). At this intersection the Applicant also will be required to provide a 60-foot diameter turnaround. An existing County park (O.O. Denny) access gate will be moved to the north boundary of that turnaround.

Some neighbors express concern that the turnaround will become a gathering area for local teenagers or "undesirables" who make noise, drink, buy/sell drugs or vandalize nearby property. These neighbors would prefer to have the turnaround lighted by a County standard street light. Other neighbors, however, expressing concern for the adjacent bald eagle habitat, would prefer to prohibit any such lighting. The Applicant suggests that, because the turnaround will function as the access route to five residential lots, fears regarding nighttime congregations of noisy or otherwise undesirable people probably will not be borne out.

7. Except as noted above, the facts and analysis contained in the Land Use Services Division Preliminary Report dated August 5, 1997 (published July 22, 1997) are correct and are incorporated here by reference. A copy of the Land Use Services Division report will be attached to those copies of the examiner's report which are submitted to the King County Council.
8. Any portion of any of the following conclusions which may be construed as a finding is incorporated here by reference.

CONCLUSIONS:

1. Any of the preceding findings which may be construed as a conclusion is hereby adopted as such.
2. The County Road Engineer's decision on Road Variance File L96V0121 should be sustained for the public safety reasons indicated in Finding No. 6.B, above.
3. The preponderance of evidence supports the Applicant's position with regard to eagle habitat and the location of the nearest bald eagle nest. The State DFW urban biologist and the Applicant have entered into an agreement to protect the eagle habitat which should be incorporated in the final plat conditions of approval.
4. The location of the gate to O.O. Denny Park property should not be governed by this preliminary plat approval. Rather, it should be a result of negotiation among the Department of Parks, DDES and the Applicant. Likewise, no street light should be required at the 72nd Avenue Northeast terminus; first, because it could be harmful to the adjacent eagle habitat; and, second, because no adopted policy requires it. In the future, should the community seek a light at that location, the State DFW should be consulted. There is no indication in this hearing record that State DFW was aware of any proposal to establish public street lighting at this location.
4. If approved subject to the conditions recommended below, the proposed subdivision will comply with the goals and objectives of the King County Comprehensive Plan, Subdivision and

Zoning Codes, and other official land use controls and policies of King County.

5. If approved subject to the conditions recommended below, this proposed subdivision will make appropriate provision for the public health, safety and general welfare and for open spaces, for drainage ways, streets, other public ways, transit stops, potable water supply, sanitary wastes, parks and recreations, playgrounds, schools and school grounds, and safe walking conditions for students who only walk to school; and it will serve the public use and interest.
6. The conditions for final plat approval recommended below are in the public interest and are reasonable requirements to mitigate the impacts of this development upon the environment.
7. The dedications of land or easements within and adjacent to the proposed plat, as recommended by the conditions for final plat approval or as shown on the proposed preliminary plat submitted by the applicant, are reasonable and necessary as a direct result of the development of this proposed plat.

RECOMMENDATION:

It is recommended that the subject subdivision, revised and received July 8, 1997, be granted preliminary approval subject to the following conditions of final approval:

1. Compliance with all platting provisions of Title 19 of the King County Code.
2. All persons having an ownership interest in the subject property shall sign on the face of the final plat a dedication which includes the language set forth in King County Council Motion No. 5952.
3. The plat shall meet the base density and minimum density of the R-4 zone classification. All lots shall meet the minimum dimensional requirements of the R-4 zone classification, or shall be as shown on the face of the approved preliminary plat, whichever is larger. Minor revisions to the plat which do not result in substantial changes may be approved at the discretion of the Department of Development and Environmental Services.
4. The applicant must obtain final approval from the King County Health Department.
5. All construction and upgrading of public and private roads shall be done in accordance with the King County Road Standards established and adopted by Ordinance No. 11187, as amended.
6. The applicant must obtain the approval of the King County Fire Protection Engineer for the adequacy of the fire hydrant, water main, and fire flow standards of Chapter 17.08 of the King County Code. If all lots are 35,000 square feet in size or more, or if the subdivision is outside an Urban Growth Area and is developed at a density no greater than one residential building lot per five (5) acres, or a cluster development outside an Urban Growth Area with lots under 35,000 square feet in size and offsetting permanent open space and is developed at a density no greater than one residential building lot per five (5) acres, the subdivision is exempt per KCC 17.08.030.

7. Final plat approval shall require full compliance with drainage provisions set forth in King County Code 9.04 and the storm drainage requirements and guidelines as established by the Surface Water Management Division. Compliance may result in reducing the number and/or location of lots as shown on the preliminary approved plat. The following conditions represent portions of the Code and requirements and shall apply to all plats.
 - a. Drainage plans and analysis shall comply with the 1990 King County Surface Water Design Manual and updates which were adopted by Public Rule effective January 1, 1995. DDES approval of the drainage and roadway plans is required prior to any construction.
 - b. Current standard plan notes and ESC notes, as established by DDES Engineering Review, shall be shown on the engineering plans.
 - c. The following note shall be shown on the final recorded plat:

"All building downspouts, footing drains, and drains from all impervious surfaces such as patios and driveways shall be connected to the permanent storm drain outlet as shown on the approved construction drawings # _____ on file with DDES and/or the Department of Public Works. This plan shall be submitted with the application of any building permit. All connections of the drains must be constructed and approved prior to the final building inspection approval. For those lots that are designated for individual lot infiltration systems, the systems shall be constructed at the time of the building permit and shall comply with plans on file."
8. Downstream capacity problems exist in the drainage system along Holmes Point Drive. The existing 12-inch conveyance pipe system is limited to approximately the 10-year, 24-hour storm event (see Level Three Downstream Drainage Analysis dated November 19, 1996).

The proposed detention system shall therefore be designed to match the following criteria: Detention facilities shall be designed using the SCS-SBUH, 24-hour Storm Method (or other method approved by DDES) such that post-development 2-year, 10-year, and 100-year storm flows do not exceed pre-development 2-year, 10-year, and 10- year flows, respectively. A 30-percent volumetric safety factor shall be added to the facility. The above detention standard may be modified as approved by DDES if the downstream capacity problems are corrected.
9. Off-site drainage improvements are required for this subdivision to convey flows to Holmes Point Drive and southerly along Holmes Point Drive. (See Developed Conditions Map in the Level Three Analysis dated November 19, 1996). Plans shall be submitted for this improvement at engineering plan submittal.
 - a. The proposed drainage improvements in the unopened Northeast 120th Street right of way shall be reviewed by the Applicant's geotechnical engineer and recommendations shall be shown on the engineering plans. DDES geotechnical staff shall also review the Applicant's proposal.
 - b. A Northeast 120th Street right of way Restoration Plan shall be submitted at

engineering plan submittal for the new drainline construction. The restoration shall include a detailed revegetation plan.

10. The following road improvements are required for this subdivision to be constructed according to the 1993 King County Road Standards:
 - a. Northeast 120th Place shall be improved to the urban subaccess standard.
 - b. Seventy-Second Avenue NE frontage shall be improved full-width to the urban minor access standard and according to the conditions of approval for Variance L96V0121. NOTE: This may result in the reconfiguration and/or loss of lots.
 - c. NE 120th Street frontage and off-site shall be improved according to the conditions of approval for Variance L96V0121. This improvement requires lowering the road to improve sight distance. NOTE: This may result in the reconfiguration and/or loss of lots.
 - d. Tracts A and B shall be designed as private access tracts and according to the conditions of approval for Variance L96V0121. The affected lots will be responsible for the ownership and maintenance of these tracts. A note to this effect shall be shown on the engineering plans and final plat.
 - e. Modifications to the above road conditions may be considered by King County pursuant to the variance procedures in KCRS 1.08.
 - f. A traffic control plan shall be submitted at engineering plan submittal for the Northeast 120th Street road lowering and for the new drainline construction along Holmes Point Drive per Section 9.05A of the 1993 King County Road Standards.
11. All utilities within proposed rights-of-way must be included within a franchise approved by the King County Council prior to final plat recording.
12. The applicant or subsequent owner shall comply with King County Code 14.75, Mitigation Payment System (MPS), by paying the required MPS fee and administration fee as determined by the applicable fee ordinance. The applicant has the option to either: (1) pay the MPS fee at final plat recording, or (2) pay the MPS fee at the time of building permit issuance. If the first option is chosen, the fee paid shall be the fee in effect at the time of plat application and a note shall be placed on the face of the plat that reads, "All fees required by King County Code 14.75, Mitigation Payment System (MPS), have been paid"; if the second option is chosen, the fee paid shall be the amount in effect as of the date of building permit application.
13. Lots within this subdivision are subject to King County 21A.43 and Ordinance 12532, which imposed impact fees to fund school system improvements needed to serve new development. As a condition of final approval, fifty percent (50%) of the impact fees due for the plat shall be assessed and collected immediately prior to recording, using the fee schedules in effect when the plat received final approval. The balance of the assessed fee shall be allocated evenly to the dwelling units in the plat and shall be collected prior to building permit issuance.

14. There shall be no direct vehicular access to or from NE 120th Street from those lots which abut it, with the exception of Lot 6.
15. There shall be no direct vehicular access to or from 72nd Street NE from those lots which abut it.
16. The planter islands (if any) within the cul-de-sacs shall be maintained by the abutting lot owners. This shall be stated on the face of the final plat.
17. A fee-in-lieu of recreation space shall be paid by the applicant to King County. The amount of the fee shall be determined by the King County Parks Division, consistent with the provisions of KCC 21A.14.185.
18. The following conditions shall apply to implement the P-suffix conditions that apply to this property:
 - a. Seasonal Clearing: Clearing and grading shall not be permitted between October 1 and March 31, unless otherwise approved by DDES (1993 Northshore Community Plan, page 219).
 - b. Significant Tree Retention: The applicant shall demonstrate compliance with the P-suffix conditions regarding significant tree retention, prior to engineering plan approval (1993 Northshore Community Plan, pages 225-227).
19. Future residences on Lots 1-5 shall be sprinklered, unless otherwise approved by the King County Fire Marshal. A note to this affect shall be placed on the final plat.
20. The following have been established by SEPA as necessary requirements of this development as mitigation. The applicant shall demonstrate compliance with these items prior to final approval.
 - a. Tree cutting, clearing, grading, utility installation, road building, and outside construction shall begin July 16 and take place through January 31, outside of the critical nesting season. Exceptions may be allowed as follows:
 - 1) The cul-de-sac road (NE 120th Place) may be constructed during the nesting season.
 - 2) All construction activities on Lots 7, 8, 9, 10, and 15, per site plan dated November 21, 1996, may begin before July 16th.
 - 3) Installation of sewer line and storm drain from the southwest corner of development to lake may be constructed within the nesting season and begin before July 16th.
 - b. A 25-foot undisturbed vegetated buffer shall be maintained along north boundary of Lots 1, 2, 12, and 13. Danger trees may be removed within this buffer if designated as such by a Certified Arborist. The request for removing danger tree(s) shall be filed

with the King County Department of Development and Environmental Services (DDES) along with the Bald Eagle Site Management Plan dated May 24, 1996 for evaluation.

- c. A 25-foot screening buffer shall be located along the west boundary of Lots 1 and 5. All trees within the screening buffer shall remain. Construction of the proposed access, Tract A, crossing the buffer is allowed provided as many trees as possible are retained. Understory shrubs may be removed and landscaping done by homeowners. Danger trees may be removed as in Condition 2.
 - d. The proposed turnaround at the north end of 72nd Street may encroach into the buffers only to a minimum necessary. Only up to 10 feet encroachment (as necessary) into the west screening buffer may be allowed.
 - e. Clearing trees for Lots 1 through 5 shall be limited to driveways and building footprints only. Fifteen feet outside the building footprint may be cleared if necessary for construction.
21. The encroachments along the north boundary of the proposed plat shall be corrected through the boundary line correction process, as defined in KCC 19.08.113, prior to the final recording of said plat. The agreed upon location of the common boundary line will become the north boundary of the proposed plat upon the recording of the boundary line correction.

ORDERED this 11th day of September, 1997.

R. S. Titus, Deputy
King County Hearing Examiner

TRANSMITTED this 11th day of September, 1997, to the following parties and interested persons:

Diane Adair
Shannon Allbaugh
Shirley Allbaugh
James L. Baldwin
Gerald W. Branch
Brian Buchholz
Germaine Fitzgerald
Don Fleming
Ken Goodwin
Bruce Green
Jim/Flora Hovelin
Don/Eve Johnson

Barbara Kesti
Amy and Don Kolve
Howard/Kathleen Kroehl
Myron/Marlene Lewis
Jim Light
Ken Linarelli
John/Brenda Logan
Colin Lund, Triad Associates
Sue MacDonald
Michael Matheson, Triad Associates
Donald McGrew
Richard/Patricia Mialovich

John Nelson, Triad Associates
Trang Nguyen
Richard K. Opsahl

Richard Owens
Peter Pawlak
Mr/Mrs B. Chad Pierce
Susan Radke-Sproull
Dick/Vicki Renner
Ralph R. Renner
Jack/Nancy Rusden
Fred Schoen (for Helen Marie)
George F. Schoen Trust
John L. Scott Land Dept
Scott/Jan Shinstrom
Arvid/Joyce Tellevik
Michelle Simeon/Robert Weber
Jim St. John
Dennis Wermcrantz
Linda Youngs, Attorney At Law

Tom Bertek, KC Department of Transportation
Joe Brogan, Department of Natural Resources
Kim Claussen, DDES/LUSD, Site Plan Review Section
Marilyn Cox, DDES/LUSD, SEPA Section
Paul Eichhorn, DDES/BSD, Fire Engineering
Raymond Florent, DDES/LUSD, Engineering Review Section
Michaelene Manion, DDES/LUSD, Site Plan Review Section
Paulette Norman, KC Department of Transportation
Gary Samek, KCDOT
Steve Townsend, DDES/LUSD, Land Use Inspection
Bruce Whittaker, DDES/LUSD, Engineering Review Section

NOTICE OF RIGHT TO APPEAL

In order to appeal the decision of the Examiner, written notice of appeal must be filed with the Clerk of the King County Council with a fee of \$125.00 (check payable to King County Office of Finance) **on or before September 25, 1997**. If a notice of appeal is filed, the original and six (6) copies of a written appeal statement specifying the basis for the appeal and argument in support of the appeal must be filed with the Clerk of the King County Council **on or before October 2, 1997**. Appeal statements may refer only to facts contained in the hearing record; new facts may not be presented on appeal.

Filing requires actual delivery to the Office of the Clerk of the Council, Room 403, King County Courthouse, prior to the close of business (4:30 p.m.) on the date due. Prior mailing is not sufficient if actual receipt by the Clerk does not occur within the applicable time period. The Examiner does not have authority to extend the time period unless the Office of the Clerk is not open on the specified closing date, in which event delivery prior to the close of business on the next business day is sufficient to meet the filing requirement.

If a written notice of appeal and filing fee are not filed within fourteen (14) calendar days of the date of this report, or if a written appeal statement and argument are not filed within twenty-one (21) calendar days of the date of this report, the decision of the hearing examiner contained herein shall be the final decision of King County without the need for further action by the Council.

**MINUTES OF THE AUGUST 5, 1997, PUBLIC HEARING ON DEPARTMENT OF
DEVELOPMENT AND ENVIRONMENTAL SERVICES FILE NO. L96P0009 - PARK VIEW**

R. S. Titus was the Hearing Examiner in this matter. Participating at the hearing were Kim Claussen, Bruce Whittaker, Tom Bertek and Ray Florent, representing the County; Shannon Allbaugh, Amy Kolve, Eve Johnson, Chad Pierce, Peter Pawlak, Scott Shinstrom, Sue MacDonald, Germaine Fitzgerald, Linda Youngs, John Nelson, Jim Hovelin, Flora Hovelin, Don Johnson, Patricia Mialovich, Colin Lund, and Michael Matheson.

The following exhibits were offered and entered into the hearing record:

- Exhibit No. 1 Department of Development and Environmental Services File No. L96P0009
- Exhibit No. 2 Department of Development and Environmental Services preliminary report dated August 5, 1997
- Exhibit No. 3 Application dated May 3, 1997
- Exhibit No. 4 Environmental checklist dated May 3, 1997
- Exhibit No. 5 Mitigated Determination of Nonsignificance dated July 8, 1997
- Exhibit No. 6 Affidavit of Posting indicating July 2, 1997, as date of posting and July 9, 1997, as the date the affidavit was received by the Department of Development and Environmental Services
- Exhibit No. 7 Plat map dated July 30, 1997 (revision)
- Exhibit No. 8 Land use map 421 E & W
- Exhibit No. 9 Assessors maps SW 25-26-4
- Exhibit No. 10 KCRS variance - L96V0121
- Exhibit No. 11 Bald Eagle Nest Management Plan - Dept of Fish and Wildlife (June 12, 1996)
- Exhibit No. 12 Level 3 drainage analysis by Triad (dated November 19, 1996)
- Exhibit No. 13 Walkway conditions with photos (copy) by Applicant
- Exhibit No. 14 Geotech evaluation by Nelson-Couvrette (received May 3, 1996)
- Exhibit No. 15 Request for Reconsideration - L96V0121 dated July 29, 1997
- Exhibit No. 16 Letters of interest submitted by neighbors
- Exhibit No. 17 Revised conditions submitted by staff
- Exhibit No. 18 (12) Photographs taken by and submitted by staff
- Exhibit No. 19 Plat map with boundary correction (lots 2, 12, 13, 14, and 15)
- Exhibit No. 20 Plat density and dimension calculations
- Exhibit No. 21 Statement prepared and read into record by Patricia Mialovich
- Exhibit No. 22 Statement prepared and read into record by Eve Johnson on behalf of self and neighbors
- Exhibit No. 23 Plat map with neighbor survey results
- Exhibit No. 24 (2) Photographs of Hovelin driveway
- Exhibit No. 25 Statement prepared by Flora and James Hovelin
- Exhibit No. 26 Statement read into record prepared by Ellen Haas

Exhibit No. 27 Proposed new Condition No. 21

The following exhibit was offered and entered into the hearing record pursuant to administrative continuance:

- Exhibit No. 28 Letter (with enclosures) dated August 14, 1997, from George E. Wannamaker, Acting County Road Engineer to Michael L. Matheson, Triad Associates
- Exhibit No. 29 Memorandum dated September 8, 1997, from Kim Claussen and Bruce Whittaker (DDES) to Hearing Examiner
- Exhibit No. 30 Letter (w/attachments) dated September 4, 1997, from Linda M. Youngs (attorney for Logans) to Hearing Examiner
- Exhibit No. 31 Notice of Administratively Reopened Hearing dated August 29, 1997.
- Exhibit No. 32 Letter dated August 21, 1997, from John and Brenda Logan to Examiner

RST:daz

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